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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR
THE COUNTY OF MODOC.

Phear R. Porter, James Porter, J. L. Porter,
Pearl F. Porter, his wife, Lester Porter and
Alice I. Porter, his wife, Nettie Pepperdine,
and W. E. Pepperdine, her husband, and
L. L. Land and Cattle Company, a corporation,

Plaintiffs.

vs

C. A. Ward, and Annie Maud Ward, his wife,
Cahn Fogerty and Electa Fogerty, his wife,
E. D. Payne and Blanche Payne, his wife,
E. E. Archer and Susan Archer, his wife,
and John Page and Martha Page his wife,

Defendants.

No. 2879
Judgment and
Decree.

The above-entitled cause having come on regularly for
trial before the above-entitled Court sitting without a jury,
a jury having been duly waived by all parties hereto, on this
24th day of April, 1923, before Honorable, *Claude F. Burkitt*
judge therein presiding; the plaintiffs appearing by and through
their attorneys Messrs. A. E. Wylie and Oscar Gibbons, and the
defendants appearing by and through their attorneys Messrs.
C. S. Baldwin and D. P. Robnett, and said attorneys having
presented and filed herein a written stipulation and agreement
executed by all of said parties and their attorneys, wherein and
whereby it was and is stipulated and agreed between the parties
that said case be settled and adjusted in accordance with the
terms of said stipulation and agreement, and that this Court
enter a judgment and decree in accordance with the terms of
said agreement, and that the waters of the creeks named in the
leadings in this case be decreed to be owned by the parties
hereto as in said agreement provided, and it duly appearing to

1 the said Court from the pleadings in said case and from said
2 stipulation and agreement that said court has jurisdiction of
3 the subject-matter of said complaint and of said stipulation and
4 agreement, and of all of the parties plaintiff and defendant
5 above named and that by virtue of said stipulation and agree-
6 ment said court has jurisdiction to make and enter herein a
7 decree between the several parties thereto in accordance with
8 said stipulation and agreement, and the respective parties
9 hereto having by written stipulation waived findings of fact
10 herein;

11 NOW THEREFORE, in accordance with said stipulation and
12 agreement the Court hereby finds, adjudges and decrees as
13 follows, to wit:

14 I. That the plaintiff Phear E. Porter is now, and at
15 the time of the commencement of this action was the owner of
16 the following described real property situate in the County
17 of Modoc, State of California, to wit:

18 The Northeast quarter of the Northeast quarter and
19 the South half of the Northeast quarter of Section
20 two township forty-two North, Range thirteen East,
21 M. D. M.

22 2. That the plaintiff James Porter is now and at the time
23 of the commencement of this action was the owner of the following
24 described real property situate in the County of Modoc, State of
25 California, to wit:

26 Lots two, three and four and the Southeast quarter
27 of the Northwest quarter and the East half of the
28 Southwest quarter of Section two and the East half
29 of the Northeast quarter of Section three township
30 Forty-two North, Range thirteen East M. D. M.
31

1 3. That the plaintiffs John L. Porter and Pearl P.
2 Porter his wife, Lester H. Porter and Alice I. Porter, his
3 wife and James Porter are now and at the time of the commence-
4 ment of this action were the owners of the real property
5 hereinafter described situate in said County of Modoc, State
6 of California, to wit:

7 Northwest quarter of Northwest quarter, the South
8 half of the North half, the Northeast quarter of
9 the Southwest quarter, the Northwest quarter of
10 Southeast quarter of Section Nineteen, the South
11 half of the Northwest quarter, the Northeast quarter
12 of the Northwest quarter, the West half of the
13 Northeast quarter, the Northeast quarter of the
14 Northeast quarter, the West half of the Southeast
15 quarter, the Northeast quarter of the Southeast
16 quarter and the Southwest quarter of Section Twenty,
17 the Northwest quarter of the Northwest quarter of
18 Section Twenty-one, the East half of the Northwest
19 quarter, the West half of the Northeast quarter
20 of Section Twenty-nine in Township ^{Forty-two}Twenty-nine
21 North, Range Thirteen East M. D. M., and the
22 Northeast quarter of the Northeast quarter of
23 Section Twenty-four, Township Forty-two North,
24 range thirteen East, M. D. M.

25 4. That the plaintiffs John L. Porter and Pearl P.
26 Porter, his wife, are now, and at the time of the commencement
27 of this action were, the owners of the real property hereinafter
28 described, situate in the County of Modoc, State of California,
29 to wit:

30 East half of the Southeast quarter of Section two,
31 Northeast quarter of the Northeast quarter of Section
32 Eleven, the Southeast quarter of the Southwest quarter,
the South half of the Southeast quarter of Section one,

1 and the Northwest quarter of the Northeast quarter of Section
2 Twelve, all in Township Forty-two North, Range thirteen East,
3 M. D. M.

4 5. That the plaintiffs Lester H. Porter and Alice
5 I. Porter, are now and at the time of the commencement of this
6 action were the owners of the real property hereinafter described
7 situate in the County of Modoc, State of California, to wit:

8 West half of the Northwest quarter, Southeast
9 quarter of Northwest quarter of Section Twelve,
10 Township Forty-two North, Range Thirteen East,
11 M. D. M., the Southwest quarter of Southwest
12 quarter of Section Twelve, East half of Northwest
13 quarter and Southeast quarter of Northwest quarter
of Section Thirteen Township Forty-two North,
15 Range Twelve East, M. D. M.

16 6. That plaintiffs Nettie Pepperdine and W. E.
17 Pepperdine, her husband, are now, and at the time of the
18 commencement of this action were, the owners of the real property
19 hereinafter described situate in the County of Modoc, State of
20 California, to wit:

21 South half of the Southwest quarter of Section
22 Twenty-eight, Township Forty-two North, Range
23 fourteen East, M. D. M.

24 7. That the X. L. Land and Livestock Company, is now
25 and at the time of the Commencement of this action was a corporat-
26 ion duly organized and incorporated under the laws of the State
27 of California, and having its principal place of business in
28 the County of Modoc, State of California, and is now and at
29 the time of the commencement of this action was the owner of
30 the real property hereinafter described, situate in the County
31 of Modoc, State of California, to wit:

32 South half of Section Thirty-three, Southwest

1 quarter and West half of Southeast quarter, and
2 Southeast quarter of Southeast quarter of Section
3 Thirty-four Township Forty-three North, Range
4 Fourteen East, M. D. M.

5 8. That defendants C. A. Ward and Annie Maud Ward,
6 his wife, are now and at the time of the commencement of this
7 action were, the owners of the real property hereinafter described
8 situate in the County of Modoc, State of California, to wit:

9 North half of Southwest quarter of Section
10 Seventeen, Southeast quarter of Section eighteen,
11 Northeast quarter of Northeast quarter of Section
12 Nineteen, Northwest quarter of Northwest quarter
13 of Section Twenty all in Township Forty-two North,
14 Range 14 East M. D. M.

15 9. That the defendants Cahn Fogarty and Electa
16 Fogarty, his wife, are now and at the time of the commencement of
17 this action were the owners of the real property hereinafter
18 described situate in the County of Modoc, State of California,
19 to wit:

20 Lots numbered One and Two of the Northwest quarter
21 of Section eighteen, Township Forty-two North,
22 Range fourteen east M. D. M., and the North half
23 of the Northeast quarter of Section Thirteen and
24 the Southeast quarter of Southeast quarter of
25 Section twelve Township forty-two North, Range
26 thirteen East M. D. M.

27 10. That defendants E. D. Payne and Blanche Payne,
28 his wife, are now and at the time of the commencement of this
29 action were the owners of the real property hereinafter described
30 situate in the County of Modoc, State of California, to wit:

Southeast quarter of Southeast quarter Section
Twenty, Northeast quarter of Northeast quarter

1 of Section Twenty-nine, North half of northwest
2 quarter of Section twenty-eight, and North half
3 of Southeast quarter and Southwest quarter of
4 Northeast quarter and Southeast quarter of
5 Northwest quarter of Section twenty-eight,
6 Township Forty-two North, Range fourteen east,
7 M. D. M.

8 11. That defendants E. E. Archer and Susan Archer,
9 his wife are now and at the time of the commencement of this
10 action were, the owners of the real property hereinafter described
11 situate in the County of Modoc, State of California, to wit:

12 North half of Section Thirty-three, South half
13 of Southeast quarter Section Twenty-eight, and
14 Southwest quarter of Northwest quarter of Section
15 Thirty-four, township forty-two North, Range
16 fourteen East M. D. M.

17 12. That defendants John Page and Martha E. Page,
18 his wife, are now and at the time of the commencement of this
19 action were the owners of the real property hereinafter described
20 situate in the County of Modoc, State of California, to wit:

21 East half of Southwest quarter, Southeast quarter
22 of Section thirteen, Township forty-two North,
23 Range thirteen East M. D. M., and East half of
24 Northwest quarter and Southwest quarter of
25 Section eighteen and Northeast quarter of Northwest
26 and Northwest quarter of Northeast quarter of
27 Section Nineteen Township, forty-two North, Range
28 fourteen East, M. D. M.

1 13. That there is in said Modoc County a certain Natural
2 stream of water known as and called Parker Creek which said
3 stream rises on the western slope of the Warner Range of
4 Mountains in said County and in an easterly direction from
5 the lands of defendants Payne, and flows thence in a general
6 northwesterly direction in a well defined channel between
7 well defined banks to, upon, over and across the said lands
8 of defendants Payne, and thence across a portion of the lands
9 of plaintiffs, described in paragraph 8 herein, and thence
10 over and across the lands of defendants Ward and thence over
11 and across a portion of the lands of defendants Page, and
12 thence over and across the lands of defendants Fogerty, and
13 thence over the lands of Lester Porter and wife, and thence
14 across a portion of the lands of John Porter and wife, and
15 thence across the lands of James Porter and thence across the
16 lands of X. L. Land and Cattle Company, a corporation, and said
17 stream has so flown since the memory of man.

18 14. That there is also in said Modoc County another
19 natural stream of water known as and called Shields Creek,
20 which said stream rises in a southerly direction from the
21 head of said Parker Creek and flows thence in a well defined
22 channel between well defined banks, in a general northwesterly
23 direction to, upon, over and across the lands of defendants,
24 Archer, and thence over the lands of plaintiffs Pepperdine,
25 and thence over and across the lands of plaintiffs in paragraph
26 8 herein described and thence over the southeast corner of the
27 lands of defendants Page, and thence into the channel of
28 Parker Creek.

29 15. That there is attached to said original stipulation
30 and agreement of the parties hereto a map prepared by one
31 S. A. Mushen, civil engineer, from surveys taken by him,
32 which said map shows the lands of the parties hereto and

1
2 the course of the said Parker Creek and Shields Creek through
3 said lands, and further shows the portions of said lands of the
4 respective parties hereto that have heretofore been irrigated
5 from said streams or from either of them, such irrigated lands
6 being designated on said map by different colors to represent
7 the different kinds of crops grown upon the same, and said map
8 containing a "Legend" explaining the different crops denoted
9 by the different colors, and said map further having noted thereon
10 the number of acres in each legal subdivision in each kind of
11 crop, and said map also has the different ditches and points
12 of diversion of the several parties hereto, designated and
13 delineated thereon, and said map is expressly made a part of
14 said stipulation and agreement.

15 16. The Court further finds and decrees, in conformity
16 with said stipulation and agreement that the South half of the
17 southeast quarter of the southeast quarter of the southwest
18 quarter of Section One, Township 42 North Range 13 East, and
19 the Northwest quarter of the Northeast quarter of Section 12,
20 same township and range, is the Homestead of John L. Porter and
21 wife referred to in said Stipulation and Agreement.

22 17. IT IS FURTHER ORDERED, ADJUDGED AND DECREED, in
23 accordance with said Stipulation and agreement that the waters
24 of said Parker Creek and of said Shields Creek, are owned by the
25 parties hereto and said parties are entitled to divert and use
26 the waters of said creeks in the amounts and at the times and
27 in the manners hereinafter specified, to wit:

28 (A.) That during the early spring and at times when
29 there is sufficient water flowing in Shields Creek for the
30 proper irrigation of all of the lands on said Shields Creek
31 down to the point where said creek empties into Parker, and
32 which have heretofore been irrigated from said Shields Creek,

1 namely, the lands of the Defendants E. E. Archer and wife,
2 and John Page and wife, and of the plaintiffs Pepperdine and
3 of the plaintiffs described in paragraph three herein, (except
4 the lands of the plaintiffs and defendants situate in Plum
5 Canyon and shown ~~on~~ said map as having been irrigated from
6 Plum Creek) the owners of said lands so heretofore irrigated
7 from said Shields Creek, shall have the right to divert and use
8 a sufficient quantity of the waters of said Shields Creek on
9 their respective lands so irrigable from and heretofore irrigat-
10 ed from said Shields Creek, as shown on said map, to properly
11 irrigate said lands, but whenever the amount of water flowing
12 in said Shields Creek shall decrease to such an extent that
13 there is not sufficient water in said creek for the proper
14 irrigation of said lands so irrigable from said creek and for
15 the respective owners of such lands to irrigate said lands at
16 one and the same time, that at such time the parties in this
17 paragraph mentioned, or their successors in interest, shall
18 rotate in the use of the waters of said creek in the following
19 manner, to wit:

20 The said defendants E. E. Archer and wife, and the said
21 plaintiffs Nettie Pepperdine and husband shall jointly use not
22 exceeding one-half of the entire flow of said Shields Creek
23 on their lands irrigable from and heretofore irrigated from
24 said Shields Creek, as shown on said map, for a period of
25 three successive days and nights, and they shall permit during
26 said three days and nights a quantity of water equal to one-half
27 of the entire flow of said creek to flow down shields creek
28 to the lands of the other users on said creek, and for the
29 purpose of determining the flow of said creek at such times,
30 and of determining the quantity to be diverted and used by
31 said defendants Archer and plaintiffs Pepperdine, the waters
32 flowing in said Shields Creek shall be measured above the

1 highest diversion of said plaintiffs Pepperdine and said
2 defendants Archer, and the water in said creek is to be again
3 measured at a point immediately below the lands of the plaintiffs
4 Pepperdine, and the quantity of water flowing at said last
5 specified point of measurement shall equal one-half of the
6 quantity flowing at the first named point of measurement.

7 It is further ordered, adjudged and decreed that at
8 the expiration of said three days and nights said plaintiffs
9 Pepperdine and said defendants Archer, shall ceased to divert
10 or use any of the waters of said Shields Creek, except a
11 sufficient quantity for stock water on their respective lands,
12 for a like period of three days and nights, and during said
13 last mentioned period of three days and nights said plaintiffs
14 Pepperdine and said defendants Archer shall permit all of the
15 waters of said creek, except sufficient water for stock use)
16 to flow down the natural channel of said creek and past their
17 said lands, and at the expiration of said last specified period
18 of three days and nights, said plaintiffs Pepperdine and said
19 defendants Archer shall have the right to again divert and use
20 one-half of the water flowing in said Shields creek, for another
21 period of three days and nights, and at the expiration of said
22 three days and nights they shall again permit the waters to
23 flow down said creek, except stock water, for another period
24 of three days and nights, and this order of rotation shall
25 continue as hereinafter specified.

26 It is further ordered, adjudged and decreed, that
27 thirty-six hours before the time when said last named plaintiffs
28 and defendants commence to rotate in the use of the waters of
29 said Shields Creek as last above ordered and decreed, the
30 plaintiffs John L. Porter and wife, Lester H. Porter and wife,
31 and James Porter, shall take, divert and use, upon the lands
32 in paragraph three herein described, and only upon the portion

1 of said lands heretofore irrigated from said creek, all of the
2 water flowing in said creek at their points of diversion, as
3 shown on said map, (except they shall permit sufficient water
4 to flow to the lands of John Page for stock water) and said
5 last named plaintiffs shall continue to use all of said water
6 with the exception above specified for a period of three days
7 and nights, and at the expiration of said three days and nights
8 said plaintiffs last above named shall cease to use any of the
9 waters of said creek for a period of three days and nights and
10 during said last specified period of three days and nights
11 said defendants John Page and wife shall have the right to
12 divert and use on their lands hereinbefore described, all of
13 the water flowing in said Shields creek, below the lands of
14 plaintiffs Pepperdine, and at the end of said last specified
15 period of three days and nights said plaintiffs John L. Porter
16 and wife, Lester E. Porter and wife and James Porter shall again
17 divert and use all of the water flowing in said creek to their
18 points of diversion, (except stock water for defendants Page)
19 upon their lands in paragraph three herein described, that
20 have heretofore been irrigated from said creek, for another
21 period of three days and nights, and at the end of said last
22 mentioned period of three days and nights said last named
23 plaintiffs shall permit all the water flowing in said creek
24 to flow to the lands of defendants Page for a like period of
25 three days and nights, and said order of rotation shall continue
26 between said last named plaintiffs and defendants as hereinafter
27 specified, subject to the reservation and proviso following,
28 to wit: That immediately following the first alternating or
29 rotating period during which said defendants Page shall use the
30 waters of said Shields creek as hereinbefore provided, in the
31 month of July of each year, that for a period of one day of
32 twenty-four hours, said defendants Page and said plaintiffs,

1 John L. Porter and wife, Lester H. Porter and wife and James
2 Porter, shall permit all the waters flowing in said Shields
3 past the lands of Plaintiffs Pepperdine, (except sufficient
4 water for stock use on the Page lands) to flow down the natural
5 channel of said creek and into Parker Creek, for the use of
6 the various plaintiffs and defendants below said point where
7 said Shields Creek empties into Parker creek, and at the
8 expiration of said period of twenty-four hours, said plaintiffs
9 John L. Porter, and wife and Lester H. Porter and wife and
10 James Porter shall again rotate in the use of the waters of
11 said creek with said defendants Page, in the manner hereinbefore
12 decreed, for a period of three days of twenty-four hours, to
13 said last named plaintiffs, and the next three days of twenty-
14 fours to the said defendants Page, and then for one day of
15 twenty-four hours to the users on Parker creek, and then three
16 days to the said last named plaintiffs, three days to the
17 defendants Page and one day down Parker Creek, and this order of
18 rotation shall continue as hereinafter specified.

19 It is further ordered, adjudged and decreed, that said
20 plaintiffs Lester H. Porter and wife and defendants John Page
21 and wife, are the owners of a Reservoir used for impounding
22 water from Shields Creek, and the waters from said Reservoir
23 are used by said parties so owning said Reservoir for the
24 irrigation of lands owned by them and situated in Plum Canyon
25 and along Plum Creek shown on said map, said Reservoir being
26 designated on said map and being located on lands adjoining the
27 lands of defendants Archer on the west, in Section 32, Township
28 42 North Range 14 East M. D. M., now therefore, in accordance
29 with said stipulation and agreement, it is hereby ordered,
30 adjudged and decreed that during the early spring and when there
31 is more water flowing in said Shields Creek, than is required
32 by the owners and users of the waters of said Shields Creek

1 as in this decree found and decreed, and at the same time all the
2 owners and users of the waters of Parker Creek, in this decree
3 hereinafter found and decreed, are supplied with sufficient
4 water for use on their respective lands entitled to be supplied
5 with water, as hereinafter decreed, that then and at such times
6 the said owners of the said reservoir, shall have the right to
7 divert from said Shields Creek the surplus water flowing in
8 said Shields Creek, over and above the amount required by all
9 such persons so entitled to water from said creek, and conduct
10 said surplus water to said reservoir and impound the same therein,
11 and shall have the right to continue to run water from said Shields
12 Creek into said Reservoir, as long as all of said owners and
13 users on said Shields Creek have sufficient water for their
14 uses and purposes, and as long as the lower user on said
15 Parker Creek, Namely: K. L. Land and Cattle Company, has more
16 than sufficient water reaching its lands for the irrigation
17 thereof, but whenever the waters flowing in said Shields Creek
18 and Parker Creek are insufficient to irrigate all of the lands
19 of the plaintiffs and defendants irrigable from and heretofore
20 irrigated from said creeks, as shown on said map, and there is
21 no more than sufficient water reaching said lower user on said
22 Parker Creek for its lands, then and at such time the said
23 owners of said Reservoir shall not have the right to divert
24 or run any water into said Reservoir from said Shields Creek,
25 but they shall at such time cease diverting water to said
26 Reservoir, except that they shall have the right to continue
27 to divert twenty-five inches of water from said creek, measured
28 under a four inch pressure, to said reservoir, until such time
29 as the users of water from said Shields Creek shall commence
30 to rotate in the use of the waters of said creek as hereinbefore
31 decreed, and at the time when such rotation begins said owners
32 of said Reservoir shall cease entirely to divert or run any

1 water from said Shields Creek into said Reservoir.

2 It is further ordered, adjudged and decreed that the
3 rotation in the use of the waters of said Shields Creek, as
4 hereinbefore specified shall begin at such time in each year
5 as any of the users on said Shields Creek shall have insufficient
6 water for the proper irrigation of their lands which are irrigable
7 from and have heretofore been irrigated from said Shields Creek,
8 and shall notify the other users on said Shields Creek of such
9 fact, and at the time of such notification the said rotation
10 between the said plaintiffs John L. Porter and wife, Lester
11 H. Porter and wife and James Porter, and the defendants John
12 Page and wife shall begin, as hereinbefore specified and decreed,
13 by said plaintiffs last above named using the water first for
14 period of three days, as hereinbefore decreed, and thirty-six
15 hours after said last named plaintiffs shall begin to use the
16 water under said rotation, the said plaintiffs Pepperdine and
17 defendants Archer shall cut down to a use of not exceeding
18 one-half of all the waters of said creek, jointly, and their
19 first period of three days under said rotation as hereinbefore
20 decreed shall begin at and run from that time.

21 It is further ordered, adjudged and decreed, between
22 the plaintiffs Pepperdine and the defendants Archer, that at all
23 times when said plaintiffs Pepperdine and defendants Archer are
24 using the waters of Shields Creek the said plaintiffs Pepperdine
25 shall not divert or run in their upper ditch, indicated on said
26 map as diverting from said creek in Section 34, Township 42
27 North, Range 14 East, M. D. M., more water than is required
28 for the proper irrigation of the lands of said last named
29 plaintiffs, irrigable from and heretofore irrigated from said
30 ditch, as shown on said map, except at such times as said
31 defendants Archer wish to irrigate the small acreage of about
32 four and one-half acres shown on said map as irrigable from

1 and heretofore irrigated from said ditch and at such times as
2 said defendants Archer do wish to irrigate said land no more
3 water than is reasonably required for the irrigation of the
4 lands of said last named plaintiffs and defendants so irrigable
5 from said ditch shall be diverted into or run through said ditch.

6 It is further ordered, adjudged and decreed that at all
7 times, except when said Reservoir owners are running water from
8 said Shields Creek into said reservoir as hereinbefore decreed,
9 the said defendants Archer and Plaintiffs Pepperdine must return
10 to the channel of said Shields Creek all surplus or overflow
11 water from their said lands hereinbefore described, it being
12 further ordered that defendants Archer may return such surplus
13 or overflow water from their lands either direct to the channel
14 of said creek or may allow the same to drain onto lands of the
15 plaintiffs Pepperdine from which the same will flow back to the
16 said channel, and it is further ordered that at such times as
17 the owners of said Reservoir are running water into said
18 reservoir as hereinbefore decreed, that said defendants Archer
19 and Plaintiffs Pepperdine may allow the surplus or overflow
20 water from their respective lands to empty into said Reservoir,
21 to the amount and extent that said reservoir owners are then
22 entitled to water from said Shields Creek, as hereinbefore
23 decreed, and such surplus or overflow water shall at such times
24 be calculated in making up the amount said owners of said
25 Reservoir are at that time entitled to run, as hereinbefore
26 decreed, and it is further ordered, adjudged and decreed, that
27 at all times when said owners of said Reservoir are entitled
28 to run water into said reservoir from said creek, as hereinbefore
29 decreed, that they shall have the right to run said water over
30 the lands of said defendants Archer and thence into said
31 Reservoir.
32

1 It is further ordered, adjudged and decreed that at
2 all times the said plaintiffs John L. Porter and wife, Lester
3 H. Porter and wife and James Porter, and the said defendants
4 Page must return all surplus water from their lands described
5 in paragraphs three and twelve herein, either to the channel
6 of Shields Creek or to the channel of Parker Creek, and said
7 waters of Shields Creek shall not be used by any of the parties
8 in this paragraph named on any lands where the surplus or
9 overflow water cannot be returned to one of said channels,
10 except defendants Page may use water on their garden and calf
11 pasture south of their house but shall not run any water to
12 waste.

13 (B.) It is further ORDERED, ADJUDGED AND DECREED that,
14 in accordance with said stipulation and agreement, the waters
15 of said Parker Creek are owned by the parties hereto, and said
16 parties shall own the respective rights therein as hereinafter
17 decreed and shall be entitled to divert and use the waters of
18 said Parker Creek in the following manner, to wit:

19 That during such season of the year as there is flowing
20 in said creek last above named, ample water for the proper
21 irrigation of all of the lands of all of the parties hereto,
22 which are irrigible from and have heretofore been irrigated
23 from said Parker Creek, as shown on said map, the said parties
24 plaintiff and defendant herein so owning lands which are
25 irrigible from and have been heretofore irrigated by the waters
26 of said Parker Creek, shall each and all have the right to
27 divert from said Parker Creek and use upon said lands last
28 above specified so owned by them, a sufficient quantity of
29 water to properly irrigate said lands, and for household, stock
30 and domestic purposes, and during said time said Plaintiffs
31 John L. Porter and wife, and defendants John Page and wife and
32 Cahn Fogerty and wife, shall have the right to divert and use

1 water from said Parker Creek through the ditch shown on said
2 map leading to the said Homestead of John L. Porter and wife,
3 but whenever the waters flowing in said Parker Creek are no
4 more than sufficient for the use of the parties hereto owning
5 lands that have heretofore been irrigated from said Parker Creek
6 and which border on said Parker Creek, except the said X. L.
7 Land and Cattle Company, and at the same time to deliver to
8 the above described lands of plaintiff X. L. Land and Cattle
9 Company, One hundred and fifty-eight and five-tenths inches of
10 water, measured under a four inch pressure, that at all such
11 times the said plaintiffs John L. Porter and wife, shall not
12 have the right to divert or run any water from said Parker
13 Creek to the said Homestead of said John L. Porter and wife.

14 It is further ordered, adjudged and decreed, that said
15 plaintiff John L. Porter has a reservoir located near the head
16 of said Parker Creek, and said last named plaintiff shall have
17 the right to impound water in said reservoir during the winter
18 months and shall have the right to turn the water from said
19 reservoir into the channel of said Parker Creek at such times
20 as he may elect and if at the time of so running water from
21 said reservoir into said creek the flow of said creek is
22 augmented to such an extent that there is more water flowing
23 in said Parker Creek than is required for the use of the various
24 users on said Parker Creek, except said X. L. Land and Cattle
25 Company, and also to deliver to the said lands of X. L. Land
26 and Cattle Company, said One hundred and fifty-eight and five-
27 tenths inches of water, measured under a four inch pressure,
28 then and so long as there is an excess over said amounts, the
29 said plaintiff John L. Porter may divert through said ditch and
30 run such excess water to his said Homestead, but unless there
31 is an excess over the amounts above specified, said John L.
32 Porter shall not have the right to divert or run any water to
said Homestead.

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1 It is further ordered, adjudged and decreed, that
2 whenever the water flowing in said Parker Creek shall diminish
3 to such an extent that it is not sufficient for the proper
4 irrigation of all of the lands of all of the parties hereto,
5 irrigable from and heretofore irrigated from said Parker Creek,
6 (except the said Homestead of John L. Porter) and any of the
7 parties hereto or any one of them, so owning lands so irrigable
8 from and heretofore irrigated from said Creek, shall notify
9 the remaining parties owning lands irrigable from and hereto-
10 fore irrigated from said creek that such party or parties are
11 not receiving sufficient water for the proper irrigation of
12 their lands so entitled to water from said creek, that then and
13 at such time or times the said parties hereto shall alternate
14 and rotate in the use of the waters flowing in said Parker Creek
15 in the following manner, to wit:

16 The said defendants E. D. Payne and wife, John Page and
17 wife, O. A. Vard and wife and Gahn Fogerty and wife, and the
18 plaintiffs John L. Porter and wife, Lester H. Porter and wife
19 and James Porter, shall have the right to divert and use all of
20 the waters flowing in said Parker Creek, (subject to the exception
21 hereinafter noted) for a period of three days of twenty-four
22 hours each, on their lands hereinbefore described, situated along
23 said creek and irrigable from and heretofore irrigated from
24 said creek, except that the said last named plaintiffs shall
25 have the right to use water from said creek during said period
26 of rotation jointly with said defendants last above named, only
27 on that part of the lands of said last named plaintiffs, shown
28 on said map as irrigated lands situated in Section 20 and 21,
29 lying on the north or northeast side of said Parker Creek and
30 heretofore irrigated from said creek, and a small strip of land
31 lying along said creek on the south and southwest side thereof,
32 in Section 20, and which have recently been irrigated from said

1 creek, and the use of water by said last named plaintiffs on
2 said south and southwest side of said creek shall be only upon
3 lands lying along the creek bottom of said creek down the course
4 of said creek to a point above the lands of defendants C. A.
5 Ward and wife, where the waters so used on said south and south-
6 west side of said creek by said last named plaintiffs can be
7 returned to the channel of said Parker Creek above the point of
8 diversion of the ditch of said C. A. Ward and wife, and said
9 plaintiffs shall not have the right to use any of the waters of
10 said Parker Creek upon any other lands than those hereinbefore
11 specified, during said period of rotation.

12 It is further ordered, adjudged and decreed, that at
13 the end of said period of three days last above specified, the
14 said defendants in the last paragraph named shall cease to use
15 any of the waters of said Parker Creek, except sufficient for
16 stock water, for a like period of ~~three~~ consecutive days of
17 twenty-four ~~hours~~ each, and during said period of four days
18 the plaintiffs herein, namely: E. L. Lund and Cattle Company,
19 James Porter, Phelar M. Porter, John L. Porter and wife, and
20 Lester H. Porter and wife, shall have the right to jointly use
21 all of the waters of said Parker Creek, (except stock water for
22 said last named defendants) upon their respective lands lying
23 along said creek and which have heretofore been irrigated from
24 said creek, and at the expiration of said period of four days
25 the said Plaintiffs John L. Porter and wife, Lester H. Porter
26 and wife, and James Porter, and said defendants, E. D. Payne
27 and wife, C. A. Ward and wife and John Fogerty and Wife and
28 John Page and wife, shall again have the right to use all of
29 the waters of said creek, jointly, upon the lands of said parties
30 upon which they were to use said water for the first period of
31 three days in the last paragraph hereinbefore decreed, and at
32 the expiration of said second period of three days said defendants

1 shall cease to use any of the waters of said creek, (except stock
2 water) for another period of four days, and during said period
3 of four days said plaintiffs shall jointly have the right to
4 use all the waters of said creek, (except sufficient for stock
5 water for defendants) upon their lands upon which they have
6 the right under this decree to use said water during the first
7 period of four days under this order of rotation, and this
8 order of rotation shall continue between said parties until
9 such time as there is again flowing in said stream sufficient
10 water for the use of all of the parties hereto using water
11 from said creek, subject to the exception hereinafter decreed.

12 It is further ordered, adjudged and decreed that at
13 all times each and all of the parties to this action must
14 return all surplus or overflow water from their lands to the
15 channel of said Parker Creek or the channel of said Shields
16 Creek, except as hereinbefore decreed.

17 It is further ordered, adjudged and decreed, that
18 no party or parties hereto has any right to any water from
19 either of said creeks for any land that is not shown on said
20 map as irrigated land, and the term "heretofore irrigated"
21 as used in this decree refers to lands shown on said map as
22 irrigated lands.

23 It is further ordered, adjudged and decreed that if at
24 any time during any season of the year there is not sufficient
25 water flowing in said Parker Creek to the lands of I. L. Land
26 and Cattle Company, for stock water on said last mentioned lands,
27 that at such times all of the parties on said Shields Creek and
28 said Parker Creek shall cease to use any of the waters of either
29 of said creeks, for irrigation, but must allow all of the waters
30 of said creeks to run down the channels of said creeks, except
31 sufficient water for stock and domestic purposes for each of
32 the parties hereto, at the places where they customarily use

1 the same, so that the said X. L. Land and Cattle Company, as
2 well as all the other parties along said creeks shall receive
3 stock water, if there is sufficient for that purpose, but
4 whenever there is more water in said creeks than is required
5 for stock water and domestic purposes for all of the parties
6 hereto, that at such times the parties hereto shall be the
7 owners of and shall have the rights to divert and use the waters
8 of said creeks in the amounts, and in the manner and at the
9 times hereinbefore decreed.

10 18. It is further ordered, adjudged and decreed, that
11 this decree covers all of the rights of all of the parties
12 plaintiff and defendant above named in and to the waters of
13 said Parker Creek and of said Shields Creek, now existing
14 and likewise covers all of the rights in and to said creeks
15 and the waters thereof that may be appurtenant to the lands
16 involved in this action, or appurtenant to any irrigated
17 lands shown on said map, and in accordance with said stipulation
18 and agreement, covers any rights that may exist in favor of
19 one Louisa Reynolds, who claims some interest in some of the
20 lands of Phear E. Porter, James Porter and John L. Porter,
21 and it is further ordered, adjudged and decreed, that in the
22 event said Louisa Reynolds or her assigns should at any time
23 successfully assert and establish any other or different right
24 in the waters of said creeks or either of them for the lands
25 in which she claims an interest, that any such right so
26 asserted and established by said Louisa Reynolds or her assigns,
27 shall be between the parties hereto deducted from the rights
28 herein decreed to said plaintiffs Phear E. Porter, James Porter
29 and John L. Porter, and all the other parties hereto shall not
30 be affected by the right of said Louisa Reynolds, but their
31 rights as herein decreed, shall be as herein decreed.

19. It is further ordered, adjudged and decreed that

1 each and all of the parties hereto, their and each of their,
2 agents, attorneys, employees, heirs, successors and assigns,
3 be and they are hereby perpetually enjoined and restrained
4 from in any manner or way asserting or attempting to assert
5 any other or different right or claim in or to any of the waters
6 of said Parker Creek or said Shields creek, than the rights
7 hereinbefore decreed, or from in any way or manner, diverting
8 or using any of the waters of said creeks or either of them,
9 contrary to this decree, or from in any way or manner obstructing
10 impeding or interfering with any of the other parties hereto
11 in the diversion or use of the waters of said streams or either
12 of them in the amounts and at the times and in the manners
13 herein decreed, and are further perpetually enjoined from
14 doing any act or thing contrary to the terms of or in violation
15 of this decree.

16 20. It is further ordered, adjudged and decreed, that
17 each party hereto shall pay his or her own costs and disbursements
18 herein.

19 Dated this 24th day of April, A. D. 1923.

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21 Claude T. Park
22 Judge Presiding.
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